Use of Force

512.1 PURPOSE AND SCOPE

This policy provides guidelines on the reasonable use of force. While there is no way to specify the exact amount or type of reasonable force to be applied in any situation, every corrections deputy of this office is expected to use these guidelines to make such decisions in a professional, impartial, and reasonable manner.

In addition to those methods, techniques, and control devices set forth below, the guidelines for the reasonable application of force contained in this policy shall apply to all policies addressing the potential use of force, including but not limited to the Conducted Energy Device, Use of Restraints, and Electronic Restraints policies.

512.1.1 DEFINITIONS

Definitions related to this policy include:

Deadly force - Force that is reasonably anticipated and intended to create a substantial likelihood of death or very serious injury.

Feasible - Reasonably capable of being done or carried out under the circumstances to successfully achieve the arrest or lawful objective without increasing risk to the corrections deputy or another person.

Force - The application of physical techniques or tactics, chemical agents, or weapons to another person. It is not a use of force when a person allows him/herself to be searched, escorted, handcuffed, or restrained.

Force team technique - The force team technique ordinarily involves trained corrections deputies clothed in protective gear who enter the inmate's area in tandem, each with a specific task, to achieve immediate control of the inmate.

Imminent - Ready to take place; impending. Note that imminent does not mean immediate or instantaneous.

Totality of the circumstances - All facts and circumstances known to the corrections deputy at the time, taken as a whole, including the conduct of the corrections deputy and the individual leading up to the use of force.

512.2 POLICY

The use of force is a matter of critical concern, both to the public and to the public safety community. Corrections deputies are involved in numerous and varied interactions on a daily basis and, when warranted, may use reasonable force in carrying out their duties.

Corrections deputies must have an understanding of, and true appreciation for, their authority and limitations. This is especially true with respect to overcoming resistance while engaged in the performance of public safety duties.

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The Thurston County Sheriff's Office recognizes and respects the value of all human life and dignity without prejudice to anyone. Vesting corrections deputies with the authority to use reasonable force and to protect the public welfare requires monitoring, evaluation, and a careful balancing of all interests.

512.3 USE OF FORCE

Corrections deputies shall use only that amount of force that reasonably appears necessary given the facts and circumstances perceived by the corrections deputy at the time of the event to accomplish a legitimate government purpose such as to gain control of the individual; protect and ensure the safety of inmates, members, and others; prevent serious property damage; prevent escape; obtain compliance with facility rules and member orders; or ensure the institution's security and good order.

The reasonableness of force will be judged from the perspective of a reasonable corrections deputy on the scene at the time of the incident. Any evaluation of reasonableness must allow for the fact that corrections deputies are often forced to make split-second decisions about the amount of force that reasonably appears necessary in a particular situation, with limited information and in circumstances that are tense, uncertain, and rapidly evolving.

Given that no policy can realistically predict every possible situation a corrections deputy might encounter, corrections deputies are entrusted to use well-reasoned discretion in determining the appropriate use of force in each incident.

It is also recognized that circumstances may arise in which corrections deputies reasonably believe that it would be impractical or ineffective to use any of the control devices, weapons, or methods provided by this office. Corrections deputies may find it more effective or reasonable to improvise their response to rapidly unfolding conditions that they are confronting. In such circumstances, the use of any improvised device or method must nonetheless be reasonable and utilized only to the degree that reasonably appears necessary to accomplish a legitimate government purpose.

While the ultimate objective of every encounter is to avoid or minimize injury, nothing in this policy requires a corrections deputy to retreat or be exposed to possible physical injury before applying reasonable force.

Force shall never be used as punishment.

512.3.1 ALTERNATIVE TACTICS - DE-ESCALATION

When circumstances reasonably permit, corrections deputies should use nonviolent strategies and techniques to decrease the intensity of a situation, improve decision-making, improve communication, reduce the need for force, and increase voluntary compliance (e.g., summoning additional resources, formulating a plan, attempting verbal persuasion).

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512.3.2 FACTORS TO DETERMINE THE REASONABLENESS OF FORCE

When determining whether to apply force and evaluating whether a corrections deputy has used reasonable force, a number of factors should be taken into consideration, as time and circumstances permit. These factors include but are not limited to:

(a) Immediacy and severity of the threat to corrections deputies or others.

(b) The conduct of the individual being confronted, as reasonably perceived by the corrections deputy at the time.

(c) Corrections deputy/individual factors (e,g, age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of corrections deputies available vs. individuals).

(d) The effects of suspected drug or alcohol use.

(e) The individual's mental state or capacity.

(f) The individual's ability to understand and comply with corrections deputy commands.

(g) The proximity of weapons or dangerous improvised devices.

(h) The degree to which the individual has been effectively restrained and their ability to resist despite being restrained.

(i) The availability of other reasonable and feasible options and their possible effectiveness.

(j) The seriousness of the suspected offense or reason for contact with the individual.

(k) The training and experience of the corrections deputy.

(l) The potential for injury to corrections deputies, inmates, and others.

(m) Whether the individual appears to be resisting, attempting to evade arrest by flight, or is attacking the corrections deputy.

(n) The risk and reasonably foreseeable consequences of escape.

(o) The apparent need for immediate control of the individual or a prompt resolution of the situation to maintain or restore order.

(p) Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the corrections deputy or others.

(q) Prior contacts with the individual or awareness of any propensity for violence.

(r) Whether the individual is visibly pregnant or claims to be pregnant.

(s) Whether the individual is a minor, appears to be a minor, or claims to be a minor.

(t) Whether the individual is known to be a vulnerable adult or appears to be a vulnerable adult.

(u) Whether the individual has limited English proficiency.

(v) Whether the individual is in the presence of children.

(w) Any other exigent circumstances.

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512.3.3 DUTY TO INTERCEDE AND REPORT

Any corrections deputy present and observing another law enforcement officer or a member using force that is clearly beyond that which is objectively reasonable under the circumstances shall, when in a position to do so, intercede to prevent the use of unreasonable force.

Any corrections deputy who observes another law enforcement officer or a member use force that is potentially beyond that which is objectively reasonable under the circumstances shall report these observations to a supervisor as soon as feasible.

512.3.4 PERSPECTIVE

When observing or reporting force used by a law enforcement officer, each corrections deputy should take into account the totality of the circumstances and the possibility that other law enforcement officers may have additional information regarding the threat posed by the subject.

512.3.5 PAIN COMPLIANCE TECHNIQUES

Pain compliance techniques may be effective in controlling a physically or actively resisting individual. Corrections deputies may only apply those pain compliance techniques for which they have successfully completed office-approved training. Corrections deputies utilizing any pain compliance technique should consider:

(a) The degree to which the application of the technique may be controlled given the level of resistance.

(b) Whether the individual can comply with the direction or orders of the corrections deputy.

(c) Whether the individual has been given sufficient opportunity to comply.

The application of any pain compliance technique shall be discontinued once the corrections deputy determines that compliance has been achieved.

512.3.6 RESTRICTIONS ON RESPIRATORY RESTRAINTS

Corrections deputies of this office are not authorized to use respiratory restraints, also known as chokeholds or neck restraints (RCW 10.116.020).

For the purposes of this section;

(a) **Choke hold** is defined as any tactic in which direct pressure is applied to a person's trachea or windpipe or any other tactic intended to restrict another person's airway.

(b) **Neck restraint** refers to any vascular neck restraint or similar restraint, hold, or other tactics in which pressure is applied to the neck for the purpose of constricting blood flow.

512.3.7 USE OF FORCE TO SEIZE EVIDENCE

In general, corrections deputies may use reasonable force to lawfully seize evidence and to prevent the destruction of evidence. However, corrections deputies are discouraged from using force solely to prevent a person from swallowing evidence or contraband. In the instance when force is used, corrections deputies should not intentionally use any technique that restricts blood

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flow to the head, restricts respiration, or creates a reasonable likelihood that blood flow to the head or respiration would be restricted.

512.3.8 WASHINGTON STATE LAW - PHYSICAL FORCE

Physical force means any act reasonably likely to cause physical pain or injury or any other act exerted upon a person's body to compel, control, constrain, or restrain the person's movement. Physical force does not include pat-downs, incidental touching, verbal commands, or compliant handcuffing where there is no physical pain or injury.

A corrections deputy may use physical force upon another person to the extent necessary to :

(a) Protect against a criminal offense when there is probable cause that the person has committed, is committing, or is about to commit the offense.

(b) Effect an arrest.

(c) Prevent an escape as defined under Chapter 9A.76 of the Revised Code of Washington.

(d) Take a person into custody, transport a person for evaluation or treatment, or provide other assistance under Chapters 10.77; 71.05; or 71.34 RCW.

(e) Execute or enforce a court order authorizing or directing a corrections deputy to take a person into custody.

(f) Execute or enforce an oral directive issued by a judicial officer in the courtroom or a written order where the court expressly authorizes a corrections deputy to use physical force to execute or enforce the directive or order.

(g) Take a person into custody when authorized or directed by statute.

(h) Protect against an imminent threat of bodily injury to the corrections deputy, another person, or the person against whom force is being used.

Corrections deputies shall terminate the use of physical force as soon as the necessity for such force ends.

512.3.9 ADDITIONAL STATE REQUIREMENTS ON THE DUTY TO INTERCEDE AND REPORT

A corrections deputy shall not be disciplined for or retaliated against in any way for intervening in or for reporting in good faith the unreasonable use of force by another law enforcement officer (see the Anti-Retaliation Policy) (RCW 10.93.190).

512.4 USE OF OTHER WEAPONS AND CONTROL DEVICES

Control devices may be used when a decision has been made to control or restrain a person who is violent or who demonstrates the intent to be violent, and the use of the device appears reasonable under the circumstances. When reasonable, a verbal warning and opportunity to comply should precede the use of these devices.

When using control devices, corrections deputies should carefully consider potential impact areas to minimize injuries and unintentional targets.

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512.4.1 NOISE/FLASH DISTRACTION DEVICES

Noise/flash distraction devices, sting grenades, chemical grenades, and similar devices shall be used only at the direction of a supervisor and only by corrections deputies who have been trained in and are qualified for the use of the devices.

512.4.2 ELECTRONIC CONTROL DEVICES

The use of conducted energy weapon (CEW) shall be in accordance with the office Conducted Energy Device Policy.

The use of other electronic control devices, such as stun cuffs, stun vests, and stun belts, shall be in accordance with the office's Electronic Restraints Policy.

512.4.3 CHEMICAL AGENTS

Oleoresin capsicum (OC) spray should not be used in the medical facility or other designated areas where inmates are assigned to respiratory isolation or on any inmate who is under control with or without restraints.

Inmates who have been affected by the use of chemical agents shall be promptly provided with the proper solution to decontaminate the affected areas.

If the inmate refuses to decontaminate, such a refusal shall be documented. If an inmate has been exposed in a cell and not removed from the cell where the exposure occurred, in-cell decontamination shall be afforded to the inmate. See Sheriff's Office Policy--Corrections Manual, Policy CM 308 OC Policy

512.4.4 PROJECTILE CHEMICAL AGENTS

303K A compressed gas launcher delivers the projectiles with enough force to burst the projectiles on impact, releasing the 303K . The potential exists for the projectiles to inflict injury if they strike the head, neck, spine, or groin. Therefore, personnel deploying the 303K projectile system should not intentionally target those areas except when the corrections deputy reasonably believes the inmate may cause serious bodily injury or death to the corrections deputy or others. The use of the 303K projectile system is subject to the following requirements:

(a) Office-approved projectile chemical agents may only be used by corrections deputies who have received office-authorized training in their use.

(b) Corrections deputies encountering a situation that requires the use of the 303K projectile system shall notify a supervisor as soon as practicable. The supervisor shall ensure that all notifications and reports are completed as required by this policy.

Each deployment of a 303K projectile system shall be documented. This includes situations where the launcher was directed toward the inmate, regardless of whether the launcher was used. Only non-incident deployments are exempt from the reporting requirement (e.g., training, product demonstrations).

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The 303K close contact device, 303K has an effective 303K or less and delivers a 303K. This device is ideal for car extractions, cell extractions, cuff port issues and CERT situations.

Each deployment of a 303K projectile system shall be documented. This includes situations where the launcher was directed toward the inmate, regardless of whether the launcher was used. Only non-incident deployments are exempt from the reporting requirement (e.g., training, product demonstrations).

Deployment of the 303K should be with advanced approval of the On Duty Supervisor. Use of Force reporting requirements apply to the use of this device.

Decontamination will be offered following deployment of the 303K once compliance has been obtained and it is safe to do so.

512.4.5 IMPACT WEAPONS

The need to immediately incapacitate the inmate must be weighed against the risk of causing serious injury or death. The head and neck should not be intentionally targeted with an impact weapon, except when the corrections deputy reasonably believes the inmate may cause serious bodily injury or death to the corrections deputy or others.

512.4.6 KINETIC ENERGY PROJECTILES

Kinetic energy projectiles, when used properly, are less likely to result in death or serious physical injury and can be used by a trained and qualified member in an attempt to de-escalate a potentially deadly situation.

512.4.7 TEAR GAS GUIDELINES

Corrections deputies or other members are not authorized to use tear gas unless necessary to alleviate a present risk of serious harm posed by (RCW 10.116.030):

(a) A riot.

(b) A barricaded subject.

(c) A hostage situation.

Only the Chief Deputy of Corrections or the authorized designee may authorize the delivery and use of tear gas, and only after evaluating all conditions known at the time and determining that such force reasonably appears justified and necessary and other alternatives to the use of tear gas have been exhausted (RCW 10.116.030).

If tear gas is to be used outside the facility, authorization shall be obtained from the highest elected official of the jurisdiction in which the tear gas is to be used (RCW 10.116.030).

Prior to any use, an announcement shall be made of the intent to use tear gas. Sufficient time and space shall be allowed for compliance with the announcement (RCW 10.116.030).

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When practicable, fire personnel should be alerted or summoned to the scene prior to the deployment of tear gas to control any fires and to assist in providing medical aid or gas evacuation if needed.

512.4.8 RESTRAINT CHAIR

The emergency Restraint Chair is a tool used to provide the safe containment of an inmate who is exhibiting violent or uncontrollable behavior and to prevent self-injury, injury to others, or property damage when other techniques are not effective. The use of the Emergency Restraint Chair will only be done in accordance with Correctional Facility Restraint Chair Policy.

512.5 IMMEDIATE AND CALCULATED USE OF FORCE

An Immediate use of force occurs when force is used to respond without delay to a situation or circumstance that constitutes an imminent threat to security or safety. For example, the immediate use of force by a corrections deputy may be necessary to stop an inmate from inflicting life-threatening injuries to him/herself or to stop an assault on any other person, including other inmates. The destruction of government property may require the immediate use of force by a corrections deputy in some circumstances. A verbal warning should be given before an immediate use of force unless the circumstances preclude it.

If there is no need for immediate action, corrections deputies should attempt to resolve the situation through voluntary compliance. Calculated use of force is called for when an inmate's presence or conduct poses a threat to safety or security and the inmate is located in an area that can be controlled or isolated, or when time and circumstances permit advance planning, staffing, and organization.

A supervisor should, when reasonably available, observe on camera any calculated use of force. If time allows, the ODS should be notified in advance of any calculated use of force.

512.5.1 CONFRONTATION AVOIDANCE PROCEDURES

Prior to any calculated use of force, the supervisor shall confer with the appropriate persons to gather pertinent information about the inmate and the immediate situation. Based on the supervisor’s assessment of the available information, the supervisor should confirm the corrections deputy did attempt to obtain the inmate’s voluntary cooperation and consider other available options before determining whether force is necessary.

If force is determined necessary and other means of gaining control of an inmate are deemed inappropriate or ineffective, then the force team technique should be used to control the inmate and to apply restraints, if required.

Consideration should also be given to preventing exposure to communicable diseases in calculated use of force situations and to ensuring that medical services personnel are available.

512.6 REPORTING THE USE OF FORCE

Use of force by a member is an incident that shall be reported on the appropriate report form.

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The documentation will reflect the actions and responses of each member participating in the incident, as witnessed by the reporting member.

The report should include:

(a) A clear, detailed description of the incident, including any application of weapons, control devices or restraints.

(b) The identity of all involved in the incident (e.g., inmates, members, and others).

(c) The corrections deputy should articulate the factors perceived and why he/she believed the use of force was reasonable under the circumstances.

(d) Efforts made to temper the severity of a forceful response, and if there were none, the reasons why.

(e) Description of any injuries to anyone involved in the incident, including the result of any medical checks that show the presence or absence of injury.

Any member directly observing the incident shall make a verbal report to a supervisor as soon as practicable and include as much of the aforementioned information as is known by the member.

Members shall submit the appropriate documentation prior to going off-duty, unless directed otherwise by a supervisor.

Photos of any resulting injuries should be collected and added to the inmate's jail record.

The supervisor responsible for gathering the reports may allow a reasonable delay in preparation of a report in consideration of immediate psychological and/or physical condition of the involved member.

The Shift Supervisor shall promptly notify the Chief Deputy of Corrections of any incident involving a member employing deadly force, or any incident where a death or serious bodily injury may have been caused by a member.

512.6.1 NOTIFICATION TO CRIMINAL JUSTICE TRAINING COMMISSION

Notification shall be made to the Criminal Justice Training Commission within 15 days of any death or serious injury caused by the use of force by a corrections deputy (RCW 43.101.135).

512.6.2 NOTIFICATION TO INDIAN AFFAIRS

When the use of force by a corrections deputy results in the death of a person who is an enrolled member of a federally recognized American Indian tribe, notification shall be made to the Governor's Office of Indian Affairs within a reasonable period of time, but not more than 24 hours after the office has good reason to believe the person was an enrolled member. Notice shall include sufficient information for the Governor's Office of Indian Affairs to attempt to identify the deceased person and tribal affiliation (RCW 10.114.021).

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512.7 SUPERVISOR RESPONSIBILITIES

A supervisor should respond to a reported application of force resulting in visible injury, if reasonably available. When a supervisor is able to respond to an incident in which there has been a reported use of force where injury exists, the supervisor is expected to:

(a) Ensure a crime scene is established to preserve and protect evidence, if appropriate.

(b) Ensure that the chain of command is notified and that all necessary health and safety and security measures are initiated.

(c) Obtain the basic facts from the involved members. Absent an allegation of misconduct or excessive force, this will be considered a routine contact in the normal course of duties.

(d) Ensure that the appropriate investigation authority is notified, if appropriate.

(e) Ensure that any parties involved in a use of force situation are examined by medical staff , regardless of whether any injuries are reported or detectable, and afforded medical treatment as appropriate

(f) Once any initial medical assessment has been completed or first aid has been rendered, ensure that photographs have been taken of any areas involving visible injury or complaint of pain, as well as overall photographs of uninjured areas.

1. These photographs should be retained until all potential for civil litigation has expired.

(g) Identify any witnesses not already included in related reports.

(h) Review and approve all related reports.

In the event that a supervisor is unable to respond to the scene of an incident involving a reported application of force, the supervisor is still expected to complete as many of the above items as circumstances permit.

512.8 USE OF DEADLY FORCE

When reasonable, the corrections deputy shall, prior to the use of deadly force, warn that deadly force may be used, unless the corrections deputy has objectively reasonable grounds to believe the person is aware of those facts.

Use of deadly force is justified in the following circumstances involving imminent threat or imminent risk:

(a) A corrections deputy may use deadly force to protect themself or others from what the corrections deputy reasonably believes is an immediate threat of death or serious bodily injury.

(b) A corrections deputy may use deadly force to stop an escaping inmate, or to stop a fleeing individual, when the corrections deputy has probable cause to believe that the individual has committed, or intends to commit, a felony involving the infliction or threatened infliction of serious bodily injury or death, and the corrections deputy reasonably believes that there is an imminent or future potential risk of serious bodily

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injury or death to any other person if the individual is not immediately apprehended. Under such circumstances, a verbal warning should precede the use of deadly force, where feasible.

Imminent does not mean immediate or instantaneous. An imminent danger may exist even if the individual is not at that very moment pointing a weapon at someone. For example, an imminent danger may exist if a corrections deputy reasonably believes the individual has a weapon or is attempting to access one and it is reasonable to believe the individual intends to use it against the corrections deputy or another person. An imminent danger may also exist if the individual is capable of causing serious bodily injury or death without a weapon and the corrections deputy believes the individual intends to do so.

512.9 USE OF FORCE REVIEW

The Shift Supervisor shall review all related reports of use of force incidents occurring on his/her command. The review is to determine whether the use of force was in compliance with policy, procedure, and applicable law and to determine if follow-up action or investigation is necessary. This review shall include a review of all related video.

512.10 TRAINING

The Chief Deputy of Corrections shall work with the Training Manager to ensure legal and facility training mandates are met. This training shall include the following:

(a) Use of force, including the duty to intercede
(b) Weapons, control devices, and chemical agents
(c) Self-defense
(d) Confrontation avoidance procedures:
    1. Communication techniques
    2. De-escalation techniques
    3. Dealing with the mentally ill
    4. Application of restraints
(e) Forced cell extraction techniques
(f) Force team techniques
(g) General restraint training (soft and hard restraints)
(h) Reporting procedures

512.11 WASHINGTON STATE LAW – REASONABLE CARE

Corrections deputies shall use reasonable care when determining whether to use and when using any physical force or deadly force against another person. The least amount of physical force necessary shall be used to overcome resistance under the circumstances.

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